

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RISHARDO LAWRENCE,

Plaintiff,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 22-cv-05056-KAW

**ORDER DENYING REQUEST TO
RETAIN CASE IN THE NORTHERN
DISTRICT OF CALIFORNIA**

Re: Dkt. No. 3

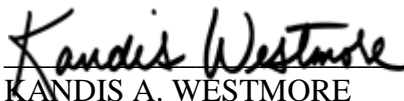
Plaintiff Rishardo Lawrence is an inmate at the California Medical Facility in Vacaville, California. (Compl. at 1, Dkt. No. 1.) On September 6, 2022, Plaintiff filed the instant complaint for retirement damages and failure to grant a medical parole hearing for Plaintiff. On September 16, 2022, Plaintiff filed a “Request to Retain Case in the Northern District San Francisco,” arguing that the case should not be refiled in the Eastern District of California because “the Eastern District is overcome by the volume of cases filed by inmates in the CSP Solano and CSP-CMF prisons.” (Dkt. No. 3.)

Venue generally is proper in a judicial district in which: (1) any defendant resides, if all defendants are residents of the state in which the district is located; (2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) any defendant is subject to the court’s personal jurisdiction, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Venue may be raised by the court sua sponte where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986). Orders respecting venue are interlocutory in nature and are not appealable prior to final judgment. *Pacific Car & Foundry Co. v. Pence*, 403 F.2d 949 (9th Cir. 1968).

1 Here, as Plaintiff acknowledges, the case should have been filed in the Eastern District of
2 California. Plaintiff cites no authority suggesting that the Court may “retain” the case in an
3 improper judicial district. Where a case is filed in the wrong venue, the district court has the
4 discretion either to dismiss the case or transfer it to the proper federal court “in the interest of
5 justice.” *See* 28 U.S.C. § 1406(a). Accordingly, the Court DENIES Plaintiff’s motion to retain
6 the case in this district and TRANSFERS the case to the Eastern District of California.

7 IT IS SO ORDERED.

8 Dated: October 31, 2022

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10 KANDIS A. WESTMORE
11 United States Magistrate Judge
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